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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,724	04/15/2004	Donald M. Pohler	DMP-659	6715
46488	7590	10/04/2007		
JOHN M. HAMMOND PATENT INNOVATIONS LLC 150 LUCIUS GORDON DRIVE SUITE 205 WEST HENRIETTA, NY 14586			EXAMINER KOCZO JR, MICHAEL	
			ART UNIT 3746	PAPER NUMBER
			MAIL DATE 10/04/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/824,724		POHLER, DONALD M.	
	Examiner		Art Unit	
	Michael Koczo, Jr.		3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 6-14, 17-22, 25-27, 30-37, 40-43 and 47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 15, 16, 23, 24, 28, 29, 38, 39 and 44-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04-29-2004</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Applicant's election of the group I invention, without traverse, is acknowledged. Claims 6 to 14, 17 to 22, 25 to 27, 30 to 37, 40 to 43 and 47 therefore stand withdrawn from further consideration as being drawn to non-elected inventions.

Specification

The disclosure is objected to because of the following informalities:

On page 7, line 6, there is no figure 2A in the drawings.

On page 12, line 3, a period should be inserted following "216" (first occurrence).

Regarding page 22, lines 7 and 8, an axial fan does not discharge air radially.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: there is no basis in the specification for "first passageway" and "second passageway" of claim 4.

Drawings

The drawings are objected to because the lines are not uniformly drawn. Also, parts in section must be hatched and parts in elevation must be shaded (37 CFR 1.84). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as

“amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claims 3 to 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, no seal is recited to given meaning to “seal flood region”.

Regarding claim 4, it is not clear what structure forms the passageways since there is no mention of first and second passageways in the specification. The scope of claim 4 therefore cannot be ascertained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 29, 39 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Curtis (US 2,312,525). Curtis discloses an electric motor driven pump having a cover 16 forming part of the volute chamber 21. Regarding claims 29, 39 and 45, the end cover 40 has an inlet opening 82, a shaft opening and a bearing race, respectively.

Claims 16, 23, 24 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by either of Mathis et al (US 6,464,471) or Colwell (US 5,375,651). Mathis et al disclose a pump having a motor disposed in a cylindrical housing 68. The housing has an open end with a cover 36 attached thereto. The housing has a first air inlet opening 56 and a first air outlet opening 80. Colwell discloses a pump having a motor disposed in a cylindrical housing 11. The housing has end covers 12 with air openings 14.

Claim 38 is rejected under 35 U.S.C. 102(b) as being anticipated by Mathis et al. Cover 36 is made of plastic (col. 3, l. 53).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 to 4, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Harker et al (US 4,569,638) in view of Curtis. Harker et al disclose an electric motor driven

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pump having a cover 103. However, Harker et al do not disclose that the cover forms a volute chamber. Curtis discloses that it is known to form volute chambers for reducing the flow velocity of the pumped fluid. In view of this teaching, it would have been obvious to form the pump chamber of Harker et al in the form of a volute. Plate 21 of Harker et al is readable as an "exclusionary plate".

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis in view of Ishida et al (US 5,248,238). Ishida et al disclose an electric motor driven pump having a housing made of aluminum alloy (col. 7, para. 1). Aluminum alloy is lightweight and corrosion resistant. In view of this teaching, it would have been obvious to make the pump/motor housing of Curtis of aluminum alloy.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over either of Mathis et al or Colwell, as applied to claim 16 above, and further in view of Ishida et al, for the reasons as applied previously.

Claims 44 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over either of Mathis et al or Colwell in view of DeAngelis (US 4,162,419). DeAngelis discloses a cylindrical motor housing 14 having an end cover 94 having holed flanges for mounting bolts (fig. 4). In view of this teaching, it would have been obvious to mount the end cover of either of Mathis et al or Colwell to the housing via bolts and holed flanges.

Allowable Subject Matter

Claim 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry relating to patent applications in general should be directed to the Patent Assistance Center at 1-800-786-9199.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Kocz, Jr. whose telephone number is 571-272-4830. The examiner can normally be reached on M-Th; 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached at 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Michael Kocz, Jr.", with a stylized flourish at the end.

Michael Kocz, Jr.
Primary Examiner
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